IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5645 of 1991

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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RAJENDRA SINGH VORA

Versus

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Appearance:

1. Special Civil Application No. 5645 of 1991

MR TR MISHRA for Petitioner No. 1

MS VASUBEN P SHAH for Respondent No. 1

MS KJ BRAHMBHATT for Respondent No. 1

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CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 26/03/2004

ORAL JUDGEMENT

Heard learned advocate Mr. T.R.Mishra appearing on behalf of the petitioner and learned advocate

Ms.K.J.Brahmbhatt appearing on behalf of respondent.

2. In the present petition, the petitioner has challenged the award passed by the Industrial Tribunal in Reference (ITC) No. 6 of 1988 wherein the Industrial Tribunal has rejected the reference and come to the conclusion that termination is found to be legal and valid, therefore, petitioner workman is not entitled any relief.

3. Learned advocate Mr. Mishra has submitted that termination is contrary to the provisions of Industrial Disputes Act as well as relevant standing orders, but, that aspect has not been properly appreciated by the Industrial Tribunal. He also submitted that, atleast, according to the standing orders, 7 days' notice is also necessary before terminating the services. But no notice has been given to the petitioner and therefore termination is bad.

4. Learned advocate Ms. K.J.Brahmbhatt appearing on behalf of respondent submitted that the Industrial Tribunal has rightly decided the matter according to the evidence on record, and for that, Tribunal has not committed any error. She supported the finding given by the Tribunal.

5. I have considered the submissions made by both the learned advocates and I have also perused the award. The Tribunal has rightly examined the matter that petitioner workman has not completed 180 days continuous service, therefore, according to standing orders, if casual employee has not completed 180 days continuous service, then he is considered to be temporary worker and if the temporary worker has not completed 240 days continuous service, then no notice is necessary as per the standing orders to the workman before terminating the service of the concerned employee. The Industrial Tribunal has also considered one aspect that the petitioner workman has not completed continuous service of 240 days and therefore Section 25(F) of the Act is not applicable. According to the petitioner, he had worked at Baroda Project about 178 days and in the Ahmedabad Project for about 90 days. Therefore, considering his service at Ahmedabad Project which was based on periodical appointment, the Industrial Tribunal has come to conclusion that in view of Section 2(oo)(bb) this action considered is to be not a retrenchment. I have also considered the reasons given by the Tribunal and considering the reasoning, according to my opinion, Industrial Tribunal has not committed any error which

require any interference by this Court while exercising powers under Article 227 of the Constitution of India. Hence, there is no substance in the present petition, present petition is dismissed. Rule is discharged. No order as to costs.

(H.K.Rathod,J)

Jayanti*